

Bill No. 19-01
Concerning: Personnel – Retirement –
Amendments
Revised: 6-26-01 Draft No. 7
Introduced: May 16, 2001
Enacted: June 26, 2001
Executive: July 6, 2001 (vetoed)
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) allow an individual of the opposite sex to qualify as the domestic partner of a member of the Police collective bargaining unit for purposes of employee benefits;
- (2) change the minimum service requirements for retirement for Police Telecommunicators and members of the Service, Labor, and Trades bargaining unit;
- (3) increase the amount of member contributions required for certain retirement groups;
- (4) allow refunds of member contributions used to purchase prior service if County law is later amended to reduce the maximum years of service for which a member may receive credit;
- (5) change the amount of pension at normal retirement for certain retirement groups;
- (6) clarify that medical reevaluation under the current disability retirement provisions applies to all retired members;
- (7) for retirement Group G, allow the Disability Review Panel to request and consider an independent vocational assessment in recommending an appropriate service-connected disability benefit;
- (8) allow a “pop-up” joint and survivor pension payment option;
- (9) change the cost-of-living adjustment for certain members;
- (10) for a Retirement Savings Plan member, allow reinstatement of forfeited County contributions if the individual is reemployed by the County within 6 months of separation; [[and]]
- (11) allow certain former employees who return to County service to transfer the present value of certain benefits to the Retirement Savings Plan, or to resume membership in the Employees Retirement System;
- (12) require certain employees to be notified of the opportunity to transfer certain retirement benefits, and allow certain benefits to be transferred retroactively during a limited time period; and
- (13) generally amend the law regarding County employee retirement programs.

By amending

Montgomery County Code

Chapter 33, Personnel and Human Resources

Sections 33-22, 33-35, 33-37, 33-38, 33-39, 33-39A, 33-40, 33-41, 33-42, 33-43, 33-44,
33-45, ~~[[33-46,]]~~ and 33-120

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 33-22, 33-35, 33-37, 33-38, 33-39, 33-39A, 33-40, 33-41,
33-42, 33-43, 33-44, 33-45, [[33-46,]] and 33-120 are amended as follows:

33-22. Benefits for domestic partner of employee.

* * *

(c) *Requirements for domestic partnership.* To establish a domestic
partnership, the employee and the employee's partner must either:

(1) satisfy all of the following requirements:

(A) be the same sex, unless the employee is a member of the
police bargaining unit;

* * *

(G) not be related by blood or affinity in a way that would
disqualify them from marriage under State law if the
employee and partner were (or, for members of the police
bargaining unit, are) opposite sexes;

* * *

33-35. Definitions.

In this Article, the following words and phrases have the following meanings:

* * *

Police Telecommunicator: An employee assigned to a position in a
supervisory or nonsupervisory occupational class in the Police Telecommunicator
occupational series.

* * *

33-37. Membership requirements and membership groups.

* * *

(e) *Retirement plans.*

* * *

(8) A former County employee who returns to County service may transfer to the Retirement Savings Plan the actuarial present value of the employee's benefit in the Employees' Retirement System, as of the date the employee returns to County service, if the employee:

(A) was vested under Section 33-45 when the employee left County service;

(B) left all member contributions plus credited interest in the fund;

(C) left County service before October 1, 1994; and

(D) did not return to County service within 25 months.

* * *

33-38. Normal retirement date, mandatory retirement date, early retirement date, and trial retirement.

(a) *Normal retirement date.* [Normal] The normal retirement date is the first day of the month elected by a member after the [following requirements have been met:] member meets the years of service and age requirements for the applicable membership group. For normal retirement:

(1) Group A:

(A) The member [has] must have at least:

(i) 5 years of credited service and [has reached] be at least age 60[.]; or

(ii) [has at least] 30 years of credited service and [has reached] be at least age 55.

(B) After June 30, 2002, a Group A member who is a **Police Telecommunicator** must have at least:

- 54 (i) 5 years of credited service and be at least age 60;
 55 or
 56 (ii) 30 years of credited service and be at least age 50.
- 57 (2) Group B: The member [has] must have at least:
 58 (A) 15 years of credited service and [has reached] be at least
 59 age 55[,]; or
 60 (B) [has at least] 30 years of credited service and [has
 61 reached] be at least age 51.
- 62 (3) Group D: The member [meets] must meet the requirements
 63 [contained in] of the County police relief and retirement fund
 64 law[of the County].
- 65 (4) Group E: The member [has] must have at least:
 66 (A) 15 years of credited service and [has reached] be at least
 67 age 55[,]; or
 68 (B) [has at least] 25 years of credited service and [has
 69 reached] be at least age 46.
- 70 (5) Group F: The member [has] must have at least:
 71 (A) 15 years of credited service and [has reached] be at least
 72 age 55[,]; or
 73 (B) [has at least] 25 years of credited service and [has
 74 reached] be at least age 46.
- 75 (6) Group G: The member [has] must have at least:
 76 (A) 15 years of credited service and [has reached] be at least
 77 age 55; or
 78 (B) 25 years of credited service, regardless of age.
- 79 (7) (A) Group H: The member [has] must have at least:

(i) 5 years of credited service and [has reached] be at least age 60[,]; or

(ii) [has at least] 30 years of credited service and [has reached] be at least age 55.

(B) After June 30, 2002, a Group H member who is a **Police Telecommunicator** must have at least:

(i) 5 years of credited service and be at least age 60;
or

(ii) 30 years of credited service and be at least age 50.

(C) After June 30, 2002, a Group H member who is also an SLT bargaining unit member must have at least:

(i) 5 years of credited service and be at least age 60;
or

(ii) 30 years of credited service and be at least age 50.

(8) [The normal retirement date for an] An elected officials' participant [is the first day of the month after the month the elected officials' participant attains age 62 and has] must have at least the lesser of a full term of office or 4 years of credited service and be at least age 62.

* * *

(f) *Trial retirement.*

* * *

(6)

[a.] (A) * * *

[b.] (B) * * *

[c.] (C) * * *

[d.] (D) * * *

(7) * * *

[a.] (A) * * *

[b.] (B) * * *

(8) * * *

[a.] (A) * * *

[b.] (B) * * *

* * *

33-39. Member contributions and credited interest.

- (a) *[Percent of member]* Member contributions. Each member of the retirement system must contribute[, through regular payroll deductions,] a portion of the member's regular earnings [as follows:] through regular payroll deductions.

(1) Member Contributions to the Optional Retirement Plan. A member of the Optional Retirement Plan must contribute the following percentage of regular earnings:

(A) [For members who elect to remain in the Optional Retirement Plan, the contribution is] Group A or H

member, 6 percent [for a group A or H member,];

(B) Group B member, 7 percent [for a group B member,];

(C) Group D member, 7½ percent [for a group D, E, or F member,]; and

(D) Group E, F, or G member, 8½ percent [for a Group G member].

[B. To the extent allowed under Section 414(h)(2) of the Internal Revenue Code, the County must "pick up" (as described in the Internal Revenue Code) mandatory

member contributions to the Optional Retirement Plan
for pay periods beginning on or after July 1, 1989.

C. The Chief Administrative Officer may allow an agency
that is not an "employing unit" (as described in Section
414(h)(2) of the Internal Revenue Code) to participate in
the retirement system. The County must not "pick up"
(as described in the Internal Revenue Code) mandatory
contributions of members employed by a participating
agency that is not an "employing unit".]

(2) Member Contributions to the Integrated Retirement Plan.

[(A)]

[For members] A member of the Integrated Retirement Plan[,
the contribution is] must contribute the following percentage of
regular earnings:

[(i)] (A) Group A[– 3], 4 percent up to the maximum Social
Security wage base, and 6 percent of regular earnings
that exceed the wage base[.];

[(ii)] (B) Group B[- 3 ½], 4½ percent up to the maximum
Social Security wage base, and 7 percent of regular
earnings that exceed the wage base[.];

[(iii)] (C) Group E[– 3 ¾], 4¾ percent up to the maximum
Social Security wage base, and [7 ½] 8½ percent of
regular earnings that exceed the wage base[.];

[(iv)] (D) Group F[– 4], 4¾ percent up to the maximum Social
Security wage base and [8] 8½ percent of regular
earnings that exceed the wage base[.];

159 [(v)] (E) Group G[-], 4¾ percent up to the maximum Social
 160 Security wage base and 8½ percent of regular earnings
 161 that exceed the wage base[.] and;

162 [(vi)] (F) Group H[– 3], 4 percent up to the maximum Social
 163 Security wage base and 6 percent of regular earnings that
 164 exceed the wage base.

165 [(B)] To the extent allowed under Section 414(h)(2) of the
 166 Internal Revenue Code, the County must "pick up" (as
 167 described in the Internal Revenue Code) mandatory
 168 member contributions to the Integrated Retirement Plan
 169 for pay periods beginning on or after July 1, 1989.

170 (C) The Chief Administrative Officer may allow an agency
 171 that is not an "employing unit" (as described in Section
 172 414(h)(2) of the Internal Revenue Code) to participate in
 173 the retirement system. The County must not "pick up"
 174 (as described in the Internal Revenue Code) mandatory
 175 contributions of members employed by a participating
 176 agency that is not an "employing unit."]

177 (3) Member Contributions to the Elected Officials' Plan. [For
 178 members] A member of the Elected Officials' Plan[, the
 179 contribution is] must contribute 3 percent. To the extent
 180 allowed under Section 414(h)(2) of the Internal Revenue Code,
 181 the County must "pick up" (as described in the Internal
 182 Revenue Code) mandatory member contributions to the Elected
 183 Officials' Plan.

184 (4) To the extent allowed under Section 414(h)(2) of the Internal
 185 Revenue Code, the County must "pick up" (as described in the

Internal Revenue Code) mandatory member contributions to the
Optional and Integrated, Retirement Plans for pay periods
beginning after June 30, 1989.

- (5) The Chief Administrative Officer may allow an agency that is
not an "employing unit" (as described in Section 414(h)(2) of
the Internal Revenue Code) to participate in the retirement
system. The County must not "pick up" (as described in the
Internal Revenue Code) mandatory contributions of members
employed by a participating agency that is not an "employing
unit".

* * *

- (c) *Return of member contributions.* [Member contributions may be
 refunded:]

- (1) [(A)] [Upon termination of county] Refund after employee's
separation. The County must refund contributions to a member
who is separated from County service, [except by death or
retirement, each] unless the member dies or retires. The County
must pay a member who has not elected to vest [shall be paid]
the full amount of accumulated contributions with credited
interest, less any indebtedness to the County government or the
Montgomery County Employees Federal Credit Union.

- [(B)] (2) Refund after separation of an elected officials' participant.

An elected officials' participant who ends employment with the
 County before [the] that participant's normal retirement date [of
 that elected officials' participant], and who does not receive a
 mandatory refund of [that elected officials'] the participant's
 account balances under Section 33-40(d)(2)(D), may, at the

[elected officials'] participant's request, receive the account balances, including picked-up contributions, in the required and the voluntary elected officials' participant contributions accounts established for that [elected officials'] participant, less any indebtedness to the [county government] County or the Montgomery County Employees Federal Credit Union, in a single lump-sum payment.

[(2)] (3) Refund after a member's death. If a member dies, the Chief Administrative Officer must pay to the designated beneficiary accumulated member contributions plus credited interest, less any indebtedness to the County government, unless the beneficiary is eligible for an annuity under Section 33-46. If an elected officials' participant dies before the County has implemented the method of distribution under Section 33-44, the Chief Administrative Officer must pay to the beneficiary, in accordance with Section 33-46(g), the account balances, including picked-up contributions, in the required and the voluntary elected officials' participant contributions accounts, less any indebtedness to the [county government] County or the Montgomery County Employees Federal Credit Union.

[(3)] (4) Refund after an employee elects to participate in the integrated plan instead of the optional plan. [Upon election] When a member elects to participate in the integrated retirement plan instead of the optional retirement plan, [a] the member must receive a refund of member contributions that exceeded the amount that would have been paid [had] if the contribution rate of the integrated retirement plan had been in

effect from date of enrollment to date of election, plus credited interest earned on those contributions. Despite this requirement, a member who elects to participate in the integrated retirement plan instead of the optional retirement plan while still employed by the County government must not receive a refund of picked-up contributions made on or after July 1, 1989 or credited interest earned on those contributions. [A refund of picked-up] Picked-up contributions made on or after July 1, 1989 and credited interest may be [made] refunded only if one of the events described in Section 33-45(b) occurs.

(5) Refund after a statutory change that reduces the maximum years of credited service for a retirement group.

(A) If a member purchases prior service and [[the County Code]] this Chapter is later amended to reduce the maximum years of service for which a member may receive credit, the County must refund to the member [[a]] that portion of the retirement contributions made to purchase the unneeded prior service[[,]] if the member[[:]]

[[i)] requests a refund[[: and

(ii) submits the request]] before the member retires.

(B) The [[amount the]] County must refund to the member [[is the]] that portion of the payment made to purchase [[the]] any prior service [[that is in excess of]] which exceeds the maximum credited service for the employee's retirement group. [[The term "payment" in]] In this subsection "payment" means the lump sum

amount, determined at the time of purchase on an
actuarial or flat payment basis, less any interest paid by
the member or any contributions that were previously
refunded. ~~[[Payment]]~~ The proper refund must be
~~[[made]]~~ paid to the member after [[the effective date of]]
the member's retirement begins.

~~[[C)]~~ This provision applies to any change made to the
retirement law on or after March 1, 2000.]]

* * *

33-39A. Investment of contributions to the elected officials' plan.

* * *

(b) * * *

* * *

(2) * * *

[a.] (A) * * *

[b.] (B) * * *

[c.] (C) * * *

33-40. Employer contributions.

* * *

(d) * * *

* * *

(2) * * *

[a.] (A) * * *

[b.] (B) * * *

[c.] (C) * * *

[d.] (D) * * *

33-41. Credited service.

(a) *Member's credited service.*

* * *

(5) The Chief Administrative Officer must notify each eligible employee who attains 5 years of County service of the opportunity provided under this Section to purchase credited service. The Chief Administrative Officer must also notify each eligible employee who transfers from State service or from a dual merit system position of any opportunity to transfer credited service to the County retirement system.

* * *

33-42. Amount of pension at normal retirement date or early retirement date.

* * *

(b) *Amount of pension at normal retirement date.*

(1) Pension amount for an Optional Retirement Plan member.

(A) Except for a Group E, F, or G member, the annual pension for a member of the optional retirement plan who retires on a normal retirement must equal 2 percent of average final earnings multiplied by years of credited service, up to a maximum of 36 years, plus sick leave credits. Years of credited service of less than one full year must be prorated.

(B) For a Group E member who is a member of the optional plan and retires on a normal retirement, the annual pension must equal 2.4 percent of average final earnings for each of the first 25 years of credited service completed, and 2 percent of average final earnings for

each year of credited service of more than 25 years, to a maximum of 31 years plus sick leave credits. Years of credited service of less than one full year must be prorated. Sick leave credits used for years in excess of 25 years must be credited at 2 percent of average final earnings. The maximum benefit with the application of sick leave credits must not exceed 76 percent of average final earnings.

(C) For a Group F member who is a member of the optional plan and retires on a normal retirement, the annual pension must equal 2.4 percent of average final earnings multiplied by years of credited service, up to a maximum of 30 years, plus sick leave credits. Years of credited service of less than one full year must be prorated. Sick leave credits used for years in excess of 30 years must be credited at 2 percent of average final earnings. The maximum benefit with the application of sick leave credits must not exceed 76[[%]] percent of average final earnings.

(D) For a Group G member who is a member of the optional plan and retires on a normal retirement, the annual pension must equal 2 percent of average final earnings for each of the first 20 years of credited service completed, 3 percent of average final earnings for completion of any year, or prorated portion of a year of credited service, in years 21 through 24, 8 percent of average final earnings for the 25th year of credited

service completed or for a prorated portion of credited service of more than 24 years up to the completion of 25 years, and 2 percent of average final earnings for each year or prorated portion of a year of credited service of more than 25 years, to a maximum of 31 years plus sick leave credits.

(2) Pension amount for an Integrated Retirement Plan member.

(A) For a Group A, B, or H member in the integrated retirement plan who retires on a normal retirement, the annual pension must be computed as follows:

(i) From date of retirement to the month of attainment of Social Security retirement age: 2 percent of average final earnings multiplied by years of credited service up to a maximum of 36 years, plus sick leave credits. Credited service of less than one full year must be prorated.

(ii) From the month of attainment of Social Security retirement age: 1¼ percent of average final earnings up to the Social Security maximum covered compensation level at time of retirement, plus 2 percent of average final earnings above the Social Security maximum covered compensation level at time of retirement, multiplied by years of credited service up to a maximum of 36 years, plus sick leave credits. Credited service of less than one full year must be prorated. This amount is subject initially to the cost-of-living adjustment

provided in Section 33-44(c) from date of
retirement to Social Security retirement age.

(B) [Except for a Group F or G] For a Group D member, the annual pension for a member of the integrated retirement plan who retires on a normal retirement must be computed as follows:

- (i) From date of retirement to the month of attainment of Social Security retirement age: 2 percent of average final earnings multiplied by years of credited service up to a maximum of 36 years, plus sick leave credits. Years of credited service of less than one full year[,] must be prorated.
- (ii) From the month of attainment of Social Security retirement age: one percent of average final earnings up to the Social Security maximum covered compensation level at time of retirement, plus 2 percent of average final earnings in excess of the Social Security maximum covered compensation level at time of retirement, multiplied by years of credited service, up to a maximum of 36 years, plus sick leave credits. Years of credited service of less than one full year must be prorated. This amount is subject initially to the cost-of-living adjustment provided in [subsection (c) of] Section 33-44(c) from date of retirement to Social Security retirement age, if any.

(C) For a Group E member in the integrated retirement plan who retires on a normal retirement, the annual pension must be computed as follows:

- (i) From the date of retirement to the month that the member reaches Social Security normal retirement age: 2.4 percent of average final earnings for each of the first 25 years of credited service completed, and 2 percent of average final earnings for each year of credited service of more than 25 years, to a maximum of 31 years plus sick leave credits. Years of credited service of less than one full year must be prorated. Sick leave credits used for years in excess of 25 years must be credited at 2 percent of average final earnings. The maximum benefit with the application of sick leave credits must not exceed 76 percent of average final earnings.
- (ii) From the month the member reaches Social Security normal retirement age: 1.25 percent of average final earnings up to the Social Security maximum covered compensation in effect on the date of retirement for each year of credited service to a maximum of 31 years plus sick leave credits, plus 2.4 percent of average final earnings above the Social Security maximum covered compensation in effect on the date of retirement for each of the first 25 years of credited service completed, and 2 percent of average final earnings

428 above the Social Security maximum covered
 429 compensation in effect on the date of retirement
 430 for each year of credited service of more than 25
 431 years, to a maximum of 31 years plus sick leave
 432 credits. Years of credited service of less than one
 433 full year must be prorated. Sick leave credits used
 434 for years in excess of 25 years must be credited at
 435 2 percent of average final earnings above the
 436 Social Security maximum covered compensation
 437 in effect on the date of retirement.

438 [(B)] (D) For a Group F member in the integrated retirement
 439 plan who retires on a normal retirement, the annual
 440 pension must be computed as follows:

- 441 (i) From date of retirement to the month of attainment
 442 of Social Security retirement age: [2] 2.4 percent
 443 of average final earnings multiplied by years of
 444 credited service up to a maximum of [36] 30 years,
 445 plus sick leave credits. Credited service of less
 446 than one full year must be prorated. Sick leave
 447 credits used for years in excess of 30 years must be
 448 credited at 2 percent of average final earnings.
 449 The maximum benefit with the application of sick
 450 leave credits must not exceed 76 percent of
 451 average final earnings.
- 452 (ii) [From the month of attainment of Social Security
 453 retirement age: 1 ¼ percent of average final
 454 earnings up to the Social Security maximum

covered compensation level at time of retirement, plus 2 percent of average final earnings above the Social Security maximum covered compensation level at time of retirement, multiplied by years of credited service up to a maximum of 36 years, plus sick leave credits. Credited service of less than one full year must be prorated. This amount is subject initially to the cost-of-living adjustment provided in subsection (c) of Section 33-44 from date of retirement to Social Security retirement age.] From the month the member reaches Social Security normal retirement age: 1.65 percent of average final earnings up to the maximum of 30 years, and 1.25 percent of average final earnings for years in excess of 30 years, credited with sick leave, up to the Social Security maximum covered compensation in effect on the date of retirement, plus 2.4 percent of average final earnings above the Social Security maximum covered compensation in effect on the date of retirement, multiplied by years of credited service up to a maximum of 30 years, plus sick leave credits. Years of credited service of less than one full year must be prorated. Sick leave credits used for years in excess of 30 years must be credited at 2 percent of average final earnings above the Social Security

maximum covered compensation in effect on the
date of retirement.

[(C)] (E) For a Group G member in the integrated retirement
 plan who retires on a normal retirement, the annual
 pension must be computed as follows:

* * *

33-43. Disability retirement.

(a) *Applicability.* This Section applies to[an application for disability
 benefits under this Article filed]:

- (1) an application for disability benefits filed on or after March 1,
 2000, by a member who is also a member of the Police
 Bargaining Unit; [or]
- (2) an application for disability benefits filed after May 18, 1995,
 by any other member[.]; or
- (3) a medical reevaluation of a disability retiree under subsection
(g), regardless of when an application for disability benefits
was filed.

* * *

(d) Disability retirement procedures.

* * *

- (8) (A) If the Panel is unable to make a determination based on
 the evidence presented to it, the Panel may:
 - (i) direct the applicant to undergo a medical
 examination (including all relevant medical tests)
 by a medical doctor who is not a member of the
 Disability Review Panel; and

(ii) if required ~~[[in order]]~~ for the Panel to make a recommendation under Section 33-43(i)(2), request an independent vocational assessment.

(B) The County must pay the cost of the examination and assessment.

(C) The Panel must issue its written recommendation within 30 calendar days after the Panel receives ~~[[whichever of]]~~ the ~~[[following is]]~~ later of:

(i) the full report [is received] from the medical doctor who conducted the examination; or

(ii) the full report of the results of the independent vocational assessment.

* * *

(h) *Amount of pension at non-service-connected disability retirement.*

[(1) A member, other than a Group G member, who retires on non-service-connected disability retirement must receive an annual pension equal to the greater of:

(A) 2 percent of average final earnings for each year of credited service, up to 36 years plus any additional sick leave credits; or

(B) 33 percent of final earnings.

(2)] A [Group G] member who retires on non-service-connected disability retirement must receive an annual pension equal to the greater of:

[(A)] (1) the amount calculated under Section 33-42(b); or

[(B)] (2) 33 1/3 percent of final earnings.

(i) *Amount of pension at service-connected disability retirement.*

- (1) A member, other than a Group G member, who retires on service-connected disability retirement must receive an annual pension [computed as follows:
- (A) *For total incapacity.* 2 percent of final earnings, multiplied by years of credited service, up to a maximum of 36 years and any additional sick leave credits] calculated under Section 33-42(b), but not less than $66\frac{2}{3}$ percent of final earnings[, if the member is totally and permanently incapacitated].
- [(B) *For partial incapacity.* 6 percent of final earnings for each 10 percent of permanent disability, but not less than 25 percent of final earnings, if the member is partially and permanently incapacitated. However, if the member meets the age requirements for early retirement, not less than the yearly amount of retirement pension computed under Section 33-42(c) must be payable.]
- (2) A Group G member must receive a service-connected disability pension benefit calculated under Section 33-42(b), subject to the following:
- (A) the benefit must be at least 70 percent of final earnings if the Chief Administrative Officer [determines] finds, based on a recommendation from the Disability Review Panel, that:
- (i) the member suffers from a medically determinable physical or mental impairment that makes the member unable to engage in any substantial

560 gainful activity and [which] is expected to end in
 561 death or last for at least 12 consecutive months; or
 562 (ii) the member's disability is so severe that the
 563 member would qualify to receive disability
 564 benefits from the U.S. Social Security
 565 Administration, even though the member does not
 566 receive or has not applied for such benefits; or

567 (B) the benefit must be at least 52½ percent of final earnings
 568 if the Chief Administrative Officer [determines] finds
 569 that the member meets the standards to receive
 570 service-connected disability benefits under subsection (f).

571 (3) Under this subsection, "final earnings" for a Group F or G
 572 member who is participating in a job-sharing program under a
 573 collective bargaining agreement between the County and a
 574 certified representative means the regular earnings that the
 575 member would have received if the member had been employed
 576 on a full-time basis on the last date of active service.

577 * * *

578 (I) *Appeal procedures.*

579 * * *

580 (4) The Chairperson must:

581 (A) decide all issues on prehearing procedures, including any
 582 issue related to discovery; and

583 (B) rule on all issues of law that arise before the hearing,
 584 unless ruling on the issue would decide the appeal.

585 [(4)] (5) The Disability Arbitration Board and Police Disability
 586 Arbitration Board must render a decision quickly. The

Disability Arbitration Board and Police Disability Arbitration Board should issue the decision within 30 calendar days after the hearing or receiving any post-hearing briefs.

* * *

33-44. Pension payment options and cost-of-living adjustments.

(a) [*Election of pension*] Pension payment [option] options.

- (1) A member may elect an optional form of pension actuarially equivalent to the normal form of retirement pension otherwise payable, unless the member qualifies for a non-service-connected disability retirement before reaching the early retirement date. The [determination of] Chief Administrative Officer must not consider the health condition of the member when deciding what is "actuarially equivalent" [shall not include the health condition of the member whether or not disabled].
- (2) [A member who qualifies for a non-service-connected disability retirement before reaching early retirement date is not eligible to elect a pension payment option.] A member who qualifies for non-service-connected disability retirement on or after reaching the early retirement date [is eligible to] may elect a pension payment option.
- (3) A member who qualifies for a service-connected disability retirement may elect a pension payment option, [irrespective] regardless of age and credited service.
- (4) To elect a pension payment option, the member must file the appropriate form at least one [(1)] month before the normal, early, or disability retirement date.

(5) The pension payment option [will be effective] must take effect on the member's retirement date and [will be] is void if the member or the named beneficiary dies before that date.

(6) The following forms of pension options are available:

[(1)] (A) *Ten-Year Certain and Continuous.* * * *

[(2)] (B) *Cash Refund Pension Option (available to members who were members of the employees' retirement system of the state on August 15, 1965).* * * *

[(3)] (C) *Joint and Survivor Pension Option.*

(i) [On or after May 1, 1970] Under this option, the County must make pension payments in an adjusted amount [may be paid] to the member during the member's lifetime and, [if at a] at the member's death, make pension payments to the designated beneficiary (spouse, domestic partner, or children only) who survives[,]. The County must make the pension payments to the surviving beneficiary for the rest of the beneficiary's lifetime in the amount payable to the member or other amount elected by the member, but not less than 10 percent of the amount payable to the member[, must be paid for the balance of the beneficiary's lifetime].

(ii) Upon the death of both the member and the beneficiary, a death benefit must be paid in the same manner as is provided under the normal form of retirement pension for which the member had

been eligible. [Notwithstanding Article II of Chapter 35 (Police Retirement and Relief Fund), a group D member who retired before July 1, 1970, may, not later than August 31, 1974, elect the joint and survivor pension option effective July 1, 1974, instead of the surviving spouse's benefit under Section 35-15(b). A group D retiree's election of the joint and survivor pension option does not affect the amount of the retiree's pension. When the group D retiree dies, the spouse's or domestic partner's benefit must equal 50 percent of the retiree's benefit on the date of death, payable until the spouse or domestic partner dies.]

(iii) Pop-up Option. At retirement, the member may elect the pop-up variation of a joint and survivor option with an appropriate actuarial reduction. Under this option, if the member and designated beneficiary divorce or the designated beneficiary dies before the member dies, the member's monthly payments for the rest of the member's life must "pop up" to the amount that they would have been if the member had elected the modified cash refund annuity at retirement.

[(4)] (D) *Modified Cash Refund Annuity.* * * *

* * *

(c) *Cost-of-living adjustment.* A retired member or beneficiary, including the surviving spouse or domestic partner of a group D member or

other beneficiary who survives the member under a pension option or who is otherwise eligible to receive benefits, must receive an annual cost-of-living adjustment in pension benefits[computed as follows].

* * *

(3) The percentage cost-of-living adjustment of pension benefits must be obtained by dividing the most recent index determined under paragraph (2) by the next preceding index multiplied by 100 less 100.

* * *

(B) A member enrolled on or after July 1, 1978, must receive [60] 100 percent of the [cost-of-living adjustment] change in the consumer price index up to [a total adjustment of 5] 3 percent, and 60 percent of any change in the consumer price index greater than 3 percent, up to a total adjustment of 7½ percent in any year. The [5-] 7½ percent annual [limitation] limit does not apply to:

- (i) a retired member who is disabled; or
- (ii) a pensioner aged 65 or older for a fiscal year beginning after the date the pensioner reaches age 65.

[(C) A member of Group F or G enrolled on or after July 1, 1978, must receive 100 percent of the change in the consumer price index up to 3 percent, and 60 percent of any change in the consumer price index greater than 3 percent, up to a total adjustment of 7½ percent in any year. The 7½ percent annual limitation does not apply to:

- (i) a retired Group F or G member who is disabled; or
- (ii) a retired Group F or G member in a County fiscal year that begins after the member reaches age 65.]

* * *

33-45. Vested benefits and withdrawal of contributions.

* * *

(e) *Discontinued service benefits of elected and appointed members.*

(1) [Should] If an elected or appointed member [enrolled or reenrolled before January 22, 1974,] with 10 or more years of credited service, is not [be] reappointed or reelected, the member may [elect] opt to:

(A) receive a pension [commencing] immediately, if the member enrolled or reenrolled before January 22, 1974;
or

(B) [for an elected] receive a pension at age 60, if the member enrolled or reenrolled on or after January 22, 1974[, commencing at age 60].

[(1)] (2) The pension for a member enrolled or reenrolled on or before September 26, 1983, or [a member] who [submits] submitted an application to transfer from the optional plan to the integrated plan before September 26, 1983, [must equal 2 percent of final earnings, multiplied by years of credited service, up to a maximum of 36 years, plus sick leave credits, but not less than \$300.00 monthly] is the pension the member would have received under Section 33-42(b) for regular retirement, except that:

(A) “final earnings” replaces “average final earnings” in the applicable formula in Section 33-42(b);

(B) a member who submitted an application to transfer from the optional plan to the integrated plan before September 26, 1983, must be treated as if the member had remained in the optional plan; and

(C) the monthly benefit must be at least \$300.

[(2)] (3) The pension for a member enrolled or reenrolled after September 26, 1983, or a member who submits an application to transfer from the optional plan to the integrated plan after September 26, 1983, [must be computed as follows] is the amount of pension the member would have received under Section 33-42(b)(2) for regular retirement, except that:

[a.] (A) [From date of retirement to the month of attainment of social security retirement age, 2 percent of final earnings, multiplied by years of credited service, up to a maximum of 36 years, plus sick leave credits, but not less than \$300.00 monthly.] “final earnings” replaces “average final earnings” in the applicable formula in Section 33-42(b); and

[b.] (B) [From the month of attainment of social security retirement age, benefits will be 2 percent of final earnings, multiplied by years of credited service, up to a maximum of 36 years, plus sick leave credits, reduced by one percent of final earnings up to the social security maximum covered compensation level at time of retirement, multiplied by years of credited service, plus

sick leave credits. Years of credited service of less than one full year will be prorated. The] the monthly benefit [will not be less than] must be at least \$300[.00 monthly].

* * *

Sec. 33-120. Distribution of benefit.

* * *

(d) *Separation from service before normal retirement, death or disability retirement.*

* * *

(3) *Forfeitures.*

- (A) If a participant has no vested interest in the County contributions account at the time of the participant's separation from service, the participant must forfeit the entire County contributions account as of the date of separation from service.
- (B) The Chief Administrative Officer must allow a one-time reinstatement of the forfeited County contributions to an employee who is reemployed by the County within [[6]] 12 months of separation and again becomes a member of the Retirement Savings Plan. The amount reinstated by the Chief Administrative Officer must be equal to the value of the County contributions account, including investment gains and losses, as of the date of the employee's separation. This provision applies, regardless of the member's separation or reemployment date, if the member[[:]]
[[i]] requests the reinstatement in writing[[:] and

(ii) submits the request]] while the member is an
active County employee.

(C) The Chief Administrative Officer must use the forfeitures
to pay the operating expenses of the retirement savings
plan or to reduce the amount of County contributions.

* * *

Sec. 2. Applicability of amendments.

(a) Section 33-37(e)(8), added by Section 1 of this Act, applies to any
employee to whom it would otherwise apply who returned to County
service before this Act took effect. Any such employee may transfer
to the Retirement Savings Plan the actuarial present value of the
employee's benefit in the Employees' Retirement System, as of the
effective date of this Act. Alternatively, any such employee may
resume membership in the Employees' Retirement System, on the
later of the effective date of this Act or the date the employee so
notifies the Office of Human Resources.

(b) Any active employee who was eligible at any time to transfer service
credits from any public retirement system in the state under Section
33-41(h), but did not do so [[in a timely manner]] within the
applicable time period under state law, may transfer all applicable
credits to the County retirement system, [[unless a transfer would
clearly be prohibited by state law, if the employee can show]] subject
to all applicable requirements of state law, by December 31, 2001[[,
by a preponderance of the evidence, that:]]
[[(1) the employee was not personally notified of the right to transfer
any credit when a transfer could have been executed; and]]

801 [[~~(2)~~ the employee has been prejudiced by the failure to transfer any
 802 credit]];

803 Any transfer under this subsection must be retroactive to the date the
 804 employee was originally eligible to apply for the transfer.

805 *Approved:*

806	<u>/S/</u>	<u>June 26, 2001</u>
	Blair G. Ewing, President, County Council	Date

807 *Disapproved:*

808	<u>/s?</u>	<u>July 6, 2001</u>
	Douglas M. Duncan, County Executive	Date

809 *This is a correct copy of Council action.*

810	<u>_____</u>	<u>_____</u>
	Elda Dodson, CMC, Acting Clerk of the Council	Date